

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 992
Tuesday, December 9, 2008, 1:00 p.m.
Aaronson Auditorium
Tulsa Central Library
400 Civic Center

**MEMBERS
PRESENT**
Henke, Chair
Stead, Vice Chair
Stephens
Tidwell, Secretary
White

**MEMBERS
ABSENT**

**STAFF
PRESENT**
Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**
Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, December 3, 2008, at 4:01 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20820

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway (Section 1221.F.2 & 1221.G.9), located: Southeast corner of I-44 and Hwy 75.

Presentation:

Mr. Cuthbertson informed the Board of the request to withdraw. It was determined there was another billboard within the 1,200 ft. spacing requirement.

Board Action:

No action was necessary.

SE NW LESS BEG SWC SE NW TH N TO NWC E406.72 S1318.51 W414.2
POB SEC 35 19 12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20825

Action Requested:

Appeal the determination of an Administrative Official to issue a building permit (permit # 177755), located: 10 North Yale Avenue.

Presentation:

Mr. Cuthbertson informed the Board this case was related to Case No. 20826 and both appeals were withdrawn.

Board Action:

No action was necessary.

S220.75 LTS 1 THRU 3 LESS BEG SECR LT 1 TH W64.15NE71.57 N170.75
E15.25 S220.75 POB FOR HWY BLK 1, STANFORD HGTS RESUB L16-20 B2
RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20826

Action Requested:

Appeal the determination of an Administrative Official to issue a building permit (permit # 177755), located: 10 North Yale Avenue.

Presentation:

As in Case No. 20825, this case was withdrawn.

Board Action:

No action was necessary.

S220.75 LTS 1 THRU 3 LESS BEG SECR LT 1 TH W64.15NE71.57 N170.75
E15.25 S220.75 POB FOR HWY BLK 1, STANFORD HGTS RESUB L16-20 B2
RODGERS HGTS SUB, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20815

Action Requested:

Special Exception to permit fixture assembly and manufacturing (Use Unit 25) in a CH district (Section 701); and a Variance of the parking requirement (Section 1225.D) or a Special Exception to permit required parking on a lot other than the one containing the principal use (Section 1301.D), located: West of the Northwest corner of East 11th Street and South Hudson Avenue.

Mr. Cuthbertson informed the Board the applicant requested a continuation of Case No. 20815 to the meeting on January 13, 2009.

Presentation:

Roy Johnsen, 201 West 5th Street, Suite 501, Tulsa, Oklahoma, 74103, stated this is a different type of manufacturing that would not have the same issues with fumes, odors and noise.

Comments and Questions:

Ms. Stead asked that when the applicant returns to provide the square footage of the building to calculate the required parking. She also asked for the kind of manufacturing they do and any odors, noise or vibration from this facility. Ms. Stead asked them to provide location of material storage, that none of it is outside and if so what screening. The Board needs to know the number of employees, frequency of customers, and hours of operation. They would also want to see a tie agreement.

Interested Parties:

Dennis Whitaker, 911 South Erie Avenue, Tulsa, Oklahoma, 74112, asked for information regarding fumes, odors, and noise.

Laura Baldwin, 5505 East 9th Street, Tulsa, Oklahoma, expressed concern for screening, lighting, and a number to contact the company in emergencies.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20815 to the meeting on January 13, 2009, on the following described property:

LT 1 BLK 70, GLENHAVEN; LT 1 less and except N 25 and W 5 thereof & N200 LT 12 BLK 1, SANFORD ADD. a resub of Blk 26 and vacated E. 10th St. of Blks 1 and 2, White City Add., City of Tulsa, Tulsa County, State of Oklahoma

MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of October 28, 2008 (No. 990).

NEW APPLICATIONS

Case No. 20808

Action Requested:

Variance of the setback requirement for a parking area not in an R district, but within 50 ft. of an R district from the centerline of an abutting street (Section 1302.B), located: 2940 North Toledo Avenue.

Mr. Cuthbertson mentioned that this case is related to Case No. 20816, for a special exception for indoor sandblasting in an IL district on the same property. He added that should this application be approved, this does not constitute a permit for the build out as presented today.

Presentation:

Michael Laird, attorney, 20 North Broadway, Suite 1800, Oklahoma City, Oklahoma, 73102, represented Exterran Energy Solutions, based in Houston, Texas. They have other representatives to offer more detail if needed. He introduced Dale Egbert, head of Global Real Estate for Exterran.

Dale Egbert, Director of Real Estate for Exterran Energy Services, 16666 North Chase Drive, Houston, Texas. He stated the subject property is 30 acres. Exterran has been operating for 20 years. They proposed to expand the facility, adding 40,000 sq. ft. of fabrication and 30,000 sq. ft. for an engineering technology center. This would open 80 to 100 more jobs. This is one of eleven of their major manufacturing centers around the world. They specialize in the fabrication of production equipment, process and treating equipment. He stated much of this equipment is consumed in North America, and a good deal more used in the eastern hemisphere and around the world.

Comments and Questions:

Ms. Stead asked if the engineering technology center is primarily office jobs. Mr. Egbert replied that was correct. She asked if the houses next to the property were occupied. He thought they are but was not sure. She mentioned the Board would need a hardship.

Mark Fieglein, 1177 West Loop South, Suite 900, Houston, Texas, 77027, proposed to improve the existing parking by paving with asphalt. He stated that the parking area on the north is next to a flood plain and sewer line.

Interested Parties:

Fred Emmer, 2 West 2nd Street, Tulsa, Oklahoma, 74135, with the Tulsa Metro Chamber of Commerce, stated the project came before them from the Oklahoma Department of Commerce in May of 2008. This was a competitive selection and a benefit to Tulsa.

Mike Fry, 700 North Greenwood, Suite 1400, Tulsa, Oklahoma, 74106, with the State of Oklahoma Department of Commerce, noted the quality of this company.

The applicant did not have a rebuttal.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback requirement for a parking area not in an R district, but within 50 ft. of an R district from the centerline of an abutting street (Section 1302.B), subject to parking and driving surfaces being paved asphalt or concrete; per plan as shown on page 2.6 of the agenda; finding the nearest house, whether occupied or not, is at least 100 ft. away; that the zoning is probably reflective of the historic use, as opposed to a neighborhood that is being sustained; the topography is uneven and reason to grant a variance in this case; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 1 BLK 1, PRT NW SE BEG 658.59W SECR NW SE TH W658.59 N1321.41 E1177.40 S420.20 W582.50 S460 E63.17 S440.42 POB LESS E25 THEREOF FOR RD SEC 21 20 13, SHAMROCK INDUSTRIAL PARK, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20816

Action Requested:

Special Exception to allow (Use Unit 26) an indoor sand blasting operation in an IL district (Section 901), located: 2940 North Toledo Avenue.

Presentation:

Lloyd Coleman, 16666 North Chase Drive, Houston, Texas, 77068, stated the process is with steel shot and is a total reclamation system. They blast steel pipe and vessels as part of their production equipment. He submitted an exhibit for the applicant (Exhibit D-1).

Comments and Questions:

Ms. Stead asked for confirmation that there is no odor, heat, vibration, and no air quality impact. Mr. Coleman confirmed everything is contained within two structures. He responded to her questions, that they have a small assembly pad where they put together equipment that has to be on a perfectly level surface. He

responded that all parking would be asphalt or concrete surface. They plan to be finished with the two phases completed by late fall 2009. He added they intend to comply with the screening requirements. Mr. Cuthbertson responded to Ms. Stead that he has not received any complaints about this application.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to allow (Use Unit 26) an indoor sand blasting operation in an IL district (Section 901), per applicant exhibit C2.0, submitted today, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 1 BLK 1, SHAMROCK INDUSTRIAL PARK , and PRT NW SE BEG 658.59W
SECR NW SE TH W658.59 N1321.41 E1177.40 S420.20 W582.50 S460 E63.17
S440.42 POB LESS E25 THEREOF FOR RD SEC 21 20 13, City of Tulsa, Tulsa
County, State of Oklahoma

Case No. 20812

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), located: 3122 North Harvard Avenue.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, represented the Whistler Sign Company. Verification of spacing was provided.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** the Verification of the spacing requirement for a digital outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

BEG 50W & 356.3N SECR NE N733.77 SW ON ATSF TO PT356N SL NE
E599.73 POB LESS .6AC TO SPURLINE SEC 20 20 13, City of Tulsa, Tulsa
County, State of Oklahoma

Case No. 20813

Action Requested:

Verification of the spacing requirement for a digital outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), located: 1324 West 41st Street South.

Presentation:

Mike Joyce, 1717 South Boulder, Suite 200, Tulsa, Oklahoma, represented the Whistler Sign Company. Verification of spacing was provided.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** a Verification of the spacing requirement for a digital outdoor advertising sign from another outdoor advertising sign on the same side of the highway (Section 1221.G.9), based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

BEG 15S OF NWC OF W63.5 E310.75 S626 OF N/2 NW NWTH S307 SE86.89
N372.23 SW63.7 POB SEC 26 19 12, City of Tulsa, Tulsa County, State of
Oklahoma

Case No. 20814

Action Requested:

Special Exception to modify the height of a fence in the required front yard from 4 ft. to 8 ft. (Section 210.B.3); and a Variance of the setback requirement for a fence from the centerline of an abutting street (Section 215), located: 1356 East 27th Place.

Presentation:

William J. Doyle, III, 551 OneOk Plaza, Tulsa, Oklahoma, 74103, represented his clients. He pointed out this is a four-foot wrought iron fence on top of a two-foot stucco base. The columns are eight feet and support the gate that is still well inside the drive. He referred to the plans (Exhibit B-1). He pointed out that 27th

Street is unique, which was dedicated in 1911 with a 30 ft. right-of-way. He stated the literal enforcement of the setback would cause unnecessary hardship due to these exceptional circumstances, and the fact that 27th Place and these residences on that street are completely unique from any other RE district in the City of Tulsa. He noted that several other homes across the street have existing wrought iron fences with bases. They believe it would not cause detriment to the public good or impair the spirit or intent of the Code.

Comments and Questions:

Ms. Stead questioned why the gate and fence could not be moved back with all the space they have and not do any great harm to the property. Mr. Doyle responded that he was within his property. Mr. Cuthbertson explained to him that the fence was within the planned right-of-way, though not in the actual right-of-way. Mr. Ackermann interjected they would need a license in the actual right-of-way. He added that the planned right-of-way is still on their property and has yet to be acquired. Ms. Stead asked who would be responsible to move the fence if the City acquired the planned right-of-way. Mr. Ackermann replied that the City would be responsible to move or remove the structure that the owner built on their own property.

Mr. White noted the survey seemed familiar, but he did not see a full survey. Mr. Doyle stated it was a White Survey.

Mr. White abstained from this case.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stephens**, the Board voted 3-1-1 (Stephens, Henke, Tidwell "aye"; Stead "nay"; White "abstained"; no "absences") to **APPROVE** a Special Exception to modify the height of a fence in the required front yard from 4 ft. to 8 ft. (Section 210.B.3), finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and a Variance of the setback requirement for a fence from the centerline of an abutting street (Section 215), finding these properties are of historical nature, they are non-conforming, platted before the zoning code was put in place, per plan as shown on pages 5.9, 5.10, 5.11, with a 5 ft. variance (separation) from the face of the curb; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

PRT GOV LT 3 BEG 1650N & 660E SWC SW TH N330 E162.5 S330 W162.5
POB SEC 18 19 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20818

Action Requested:

Amend a previously approved site plan to permit a gym addition to an existing church in the RS-3 district, located: 7291 East 81st Street.

Presentation:

Ernie Hartman, 6635 East 88th Street, Tulsa, Oklahoma, submitted a map and east elevation (Exhibit E-1). He proposed to add to the facility for a full size gymnasium with a stage and storage space. The previous site plan was approved in 1999.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **AMEND** the previous submitted site plan showing an addition to an existing church in a RS-3 district and found that this is consistent with the spirit and intent of the original grant of relief in BOA Case dated August 10, 1999, located on the following described property:

W/2 SW SE LESS E105.2 N165 THEREOF & LESS S50 THEREOF FOR RD
SEC 11 18 13, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20819

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, located: Southeast Corner of South Memorial Drive and Creek Turnpike.

Presentation:

Lorenda Elizando, 7737 East 38th Street, Tulsa, Oklahoma, 74145.

Comments and Questions:

Ms. Stead noted that she had a letter showing the property listed as Lot 4, Block 1. Mr. Cuthbertson stated he had called the surveyor and made him aware of the incorrect information. The surveyor submitted a revised letter dated December 4, 2008 with the correct information listed as Lot 3, Block 1.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** verification of spacing per certificate of survey dated December 4, 2008. This is based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

LT 3 BLK 1, 9700 MEMORIAL L2&L3 B1, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20821

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, located: Northeast Corner of Highway 75 and West 91st Street South.

Presentation:

Lorenda Elizando, 7737 East 38th Street, Tulsa, Oklahoma, 74145.

Comments and Questions:

Ms. Elizando presented letter and certification. Mr. White asked if there were to be two billboards erected at this property. Ms. Elizando confirmed one billboard would be built at the north end of the property and one would be built at the south end of the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** the verification of spacing. This is based upon the facts in this matter as they presently exist, subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, on the following described property:

SW SW LYING E OF HWY 75 ROW LESS S24.75 THEREOF FOR RD SEC 14 18 12, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20822

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, located: Northeast Corner of Highway 75 and West 91st Street South.

Presentation:

Lorenda Elizando, 7737 East 38th Street, Tulsa, Oklahoma, 74145.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **ACCEPT** the applicant's verification of spacing between outdoor advertising signs subject to the action of the Board being void should another outdoor advertising sign be constructed prior to this sign, based upon the facts in this matter as they presently exist on the following described property:

SW SW LYING E OF HWY 75 ROW LESS S24.75 THEREOF FOR RD SEC 14 18 12, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20823

Action Requested:

Verification of the spacing requirement for an outdoor advertising sign of 1,200 ft. from another outdoor advertising sign on the same side of the highway, located: Northeast corner of Gilcrease Expressway and North Cincinnati Avenue.

Presentation:

Lorenda Elizando, 7737 East 38th Street, Tulsa, Oklahoma, 74145.

Comments and Questions:

Ms. Stead noted that the applicant's letter listed the property as S/2 S/2 but BOA listed property as S/2 N/2.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** this case until January 13, 2009, to enable the applicant an opportunity to correct the legal description, on the following described property:

S/2 N/2 SW NW LESS BEG 658.90N SWC NW TH N235.46 E125 SE39.01
E141.64 S127.5 SE270.13 W600.44 POB & LESS BEG NWC S/2 N/2 SW NW
TH E1320 S330 TH NWLY TO POB SEC 24 20 12, City of Tulsa, Tulsa County,
State of Oklahoma

Case No. 20824

Action Requested:

Special Exception to permit a church (Use Unit 5) in the AG district (Section 301),
located: 8911 South Union Avenue.

Presentation:

Jim Andrew, 711 West Skelly Drive, Tulsa, Oklahoma, 74105 presented the
request.

Comments and Questions:

Ms. Stead noted that sidewalks would be required along South Union connecting
with existing sidewalks. She also commented that lighting should be shielded
down and away from abutting properties.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead,
Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special
Exception to permit a church (Use Unit 5) in the AG district (Section 301) per plan
on page 14.6 subject to lighting be shielded down and away from abutting
properties, sidewalks along South Union Avenue connecting to the North and
South properties, and platting; finding the requested church will be in harmony with
the spirit and intent of the Code, and will not be injurious to the neighborhood or
otherwise detrimental to the public welfare, on the following described property:

BEG 927.95N SWC SW TH N398 E643.40 SW405.61 W564.20 POB LESS W50
THEREOF FOR ST SEC 14 18 12, City of Tulsa, Tulsa County, State of
Oklahoma

Case No. 20131

Action Requested:

Request extension of the term of the variance granted for an additional three
years, located: 6336 South Harvard Avenue, Tulsa, Oklahoma.

Presentation:

Chuck Shipley, 6336 South Harvard, Tulsa, Oklahoma, 74136. Per the exhibits,
there is an existing home on the property which is where Mr. Shipley lives and the

variance applies to the Northwest corner of the 1.94 acres. He believes that the only problem for the rear yard is due to Harvard being located to the East. The rear yard of his home and to the proposed will be to the South because the homes face North. Southern Hills Country Club is to the North. Mr. Shipley has had the property structurally drilled to confirm with the foundational engineers that the site will handle the new home. He has elevations for the house. Mr. Shipley has run into problems due to the difficult economic times in completing the house. He plans to sell the present home and construct the proposed home facing the Southern Hills Golf Course. His neighbor is not opposed to the setback being reduced as it was done three years ago.

Comments and Questions:

Ms. Stead said she has always been unhappy with this case because the Board was led to believe the house would face the East and the West was the side yard. Mr. Shipley said the house has been redesigned so that the front of the house faces the golf course. He said the houses along there have front yards facing to the North. Mr. Henke stated he voted against it last time because he did not think there was hardship.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 4-1-0 (White, Stephens, Stead, Tidwell "aye"; Henke "nay"; no "abstentions"; no "absences") to **APPROVE** an extension of the term of the variance for an additional three years which would permit the construction of a new house within the RS-1 required 25 ft. rear yard, on the following described property:

N255 SE NE SE NE SEC 5 18 13 1.94 ACS, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting adjourned at 2:35 p.m.

Date approved: 2/24/09

Clayton M. Stead
Vice Chair